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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas
& Electric Company (U 902 E) for a Certificate of
Public Convenience and Necessity for the Sunrise
Powerlink Transmission Project

Application 06-08-010
(Filed August 4, 2006)

Application 05-12-014
(Filed December 14, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING ON CALIFORNIA INDEPENDENT
SYSTEM OPERATOR TESTIMONY PREPARATION,
SAN DIEGO GAS & ELECTRIC COMPANY'S DISCOVERY PROGRESS,
AND CLOSURE OF APPLICATION 05-12-014**

At the workshop on November 14, 2006 in San Diego, and during the telephonic discovery conference that I conducted on November 15, 2006, several issues came to light that merit immediate attention.

Development of Testimony by the Independent System Operator (ISO)

In the scoping ruling issued on November 1, 2006, the assigned commissioner and I directed the ISO to prepare testimony including, among other things, analysis of project alternatives proposed by other parties. Most important, in terms of ISO-provided analysis, is production cost modeling to determine the relative economic benefit of different alternatives to the Sunrise project. At the workshop, the ISO acknowledged its intention to analyze certain alternatives specified by the Utility Consumer Action Network (UCAN) and proposed a procedure for the consideration of other proposed alternatives. Under the ISO's procedure, parties would submit proposed alternatives no later than December 7, 2006, parties would submit proposed alternatives. The ISO

would only analyze alternatives that it felt contained sufficient engineering detail, and met all three of its identified objectives: providing cost, reliability, and renewable energy benefits. It would undertake more detailed analysis of any remaining alternatives. The ISO did not offer specific definitions for its criteria. Several parties raised objections to this process.

It is reasonable for the ISO to take steps to contain the scope of its analytical responsibilities and to require parties to submit proposals no later than December 7, 2006. In order to reach closure on the list of alternatives that the ISO will analyze, parties must meet the December 7, 2006 deadline by sending proposed alternatives to all parties by that date. The Commission will conduct a further workshop, at a location in San Diego to be specified later, at 10 a.m. on December 13, 2006, to discuss these proposals. In offering proposals, parties should provide as much engineering specificity as they can. No alternative will be rejected prior to the workshop for lack of engineering information, or for potentially meeting some, but not all three, of the objectives discussed above.

At the workshop, the ISO (and others) may ask clarifying questions about the proposed alternatives and the ISO may offer a list of the alternatives it intends to study. We will discuss, in detail, any alternative for which there remains disagreement as to the need for further ISO analysis. If, after the workshop, the parties do not agree on the study list, the assigned commissioner will issue a subsequent ruling making a final determination. We strongly hope that the parties can resolve any differences without such intervention.

Continuation of Discovery While SDG&E Revises Its Analysis

At the end of the November 15, 2006 discovery conference, the San Diego Gas & Electric Company (SDG&E) announced its intention to revise its testimony on economic benefits for various reasons, most notably because the staff of the

California Energy Commission has reportedly produced revised demand forecasts. As a result of some confusion as to SDG&E's intention, I asked the company to send a letter to all parties explaining more precisely what it intends to do. It sent such a letter on November 20, 2006, identifying various changes that it wishes to incorporate in its testimony, which it must submit by January 26, 2007.

Because it hopes that new simulations will provide a more current assessment of the projected economic benefits of the Sunrise Powerlink as compared to the reference case and other project alternatives, SDG&E states its intention not to produce further responses to outstanding data requests that rely on the results of SDG&E's current economic analysis until the results from the market simulation updates are available. In addition, for the same reason, SDG&E states that it does not expect to be able to provide responses to certain questions and comments offered at the October 13, 2006 workshop in this matter by November 30, 2006 as was indicated in the workshop report submitted to the Commission and the parties on November 8, 2006.

SDG&E commits to revising and reissuing its previous data request responses that relied on the economic analysis as soon as possible after the results of the updated and corrected analysis are available. Similarly, SDG&E states that it will complete its responses to outstanding comments from the October 13, 2006 workshop as soon as possible after the results of the updated analysis are available (SDG&E states that, by November 30, it will provide responses that do not depend on the updated simulations).

SDG&E does not state when it plans to respond to outstanding data requests that do depend on the simulations that it wishes to update. There remains a possibility that this new plan could lead to at least a two month delay

in some data request responses. Our schedule for the submission of intervenor testimony did not anticipate an abrupt stop to some kinds of discovery activity. I want to do everything I can to keep the preparation of testimony on track and to mitigate the potential that SDG&E's new proposal could lead to further delay. Thus, SDG&E shall not postpone or delay its response to any discovery request, in light of its plans to revise its testimony, unless the party seeking such discovery asks for or agrees to a delay pending completion of the updated simulations.¹ This includes any comments or questions raised at the October 13, 2006 workshop. SDG&E's decision to update its economic analysis already strains the schedule in this case; it will be difficult if not impossible to adhere to the schedule set forth in the Scoping Order absent SDG&E's full compliance with the directive set forth above.

SDG&E's Obligation to Comply With Earlier Rulings

During the November 15, 2006 discovery conference, it came to light that SDG&E has failed to comply with at least two directives that I issued in prior rulings. First, at the September 13, 2006 prehearing conference, I ruled (as ratified in the November 1, 2006 scoping ruling) that SDG&E must respond fully to discovery requests within 10 business days and, where it cannot, it shall inform the requesting part within 4 business days of its intended schedule for compliance. At the discovery conference, UCAN stated, and SDG&E concurred, that SDG&E had failed to respond to data requests going back to February 2006, and had not provided a schedule for its intended responses. Second, in a ruling

¹ Of course, if SDG&E's revised simulations would somehow change its prior responses to data requests, it should update those responses as needed to ensure accuracy.

dated October 31, 2006, I directed SDG&E to release detailed cost estimates for the Sunrise project that it had asked to place under seal. During the discovery conference, SDG&E announced that it had no current plans to release the cost estimates. SDG&E did finally release the information by e-mail on November 21, 2006. It has yet to provide new redacted testimony.

It is relatively early in a lengthy proceeding, and I am concerned about SDG&E's apparent disregard for these directives, especially in terms of scheduling implications. I have conferred with the assigned commissioner and she shares my concern about the failure of SDG&E to adhere to the discovery orders issued to date, especially in light of SDG&E's pledges to expedite discovery where possible. I have already directed the company to provide, at the discovery conference scheduled for November 28, 2006, an indication that it has achieved full compliance with its discovery requirements. To make certain that there is no ambiguity, SDG&E shall be in compliance with its discovery procedural requirements no later than November 28, 2006. In the alternative, SDG&E shall be prepared to explain, at the discovery conference on that date, why the Commission should not pursue an Order to Show Cause in response to a failure to comply with Commission rulings. We have set a schedule in the Scoping Order that is dependent upon all parties adhering to procedural orders issued in this case. Since SDG&E seeks, as we do, adherence to the adopted schedule, I assume that SDG&E will respond in a manner that avoids diverting our resources to the issuance of Show Cause orders.

Plans to Close the Docket in Application 05-12-014

When SDG&E filed Application (A.) 06-08-010, including its Proponent's Environmental Assessment and other updated information, the chief administrative law judge consolidated the new application with the original

docket, A.05-12-014. The purpose was to facilitate a transfer of the entire record in A.05-12-014 to the new proceeding. This having been accomplished, there is no readily apparent need to keep the older docket open. Closing a docket requires a Commission decision. I intend to prepare a short order for the Commission closing A.05-12-014. Any party objecting to this procedure shall file a response to this ruling no later than November 28, 2006.

IT IS RULED that:

1. There will be an additional workshop in San Diego, on December 13, 2006, starting at 10 a.m. in a location to be announced, at which we will work to resolve any disagreements about the scope of additional alternatives analysis to be prepared by the ISO.
2. SDG&E shall not suspend its efforts to respond to any existing discovery requests unless the requesting party asks for or agrees to such a delay.
3. No later than November 28, 2006, SDG&E shall fully comply with the discovery procedures set forth at the September 13, 2006 prehearing conference and in the November 1, 2006 scoping ruling.
4. Any party objecting to the closure of A.05-12-014 shall file and serve a response to this ruling no later than November 28, 2006.

Dated November 22, 2006, at San Francisco, California.

/s/ STEVEN A. WEISSMAN

Steven A. Weissman
Administrative Law Judge

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Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated November 22, 2006, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

N O T I C E

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